101-575

SOLAR, WIND, WASTE, AND GEOTHERMAL POWER PRODUCTION INCENTIVES ACT OF 1990

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Public Law 101-575
101st Congress

An Act

Nov. 15, 1990
[H.R. 4808]

To encourage solar, wind, waste, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990.
16 USC 791a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990".

SEC. 2. PURPA AMENDMENT.

16 USC 824a-3.

Section 210(e)(2) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting "(other than a qualifying small power production facility which is an eligible solar, wind, waste, or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears.

SEC. 3. FEDERAL POWER ACT AMENDMENTS.

16 USC 796.

(a) Section 3(17)(A) of the Federal Power Act is amended by inserting "a facility which is an eligible solar, wind, waste, or geothermal facility, or" after "'small power production facility' means".

(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"(E) 'eligible solar, wind, waste or geothermal facility' means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources, and which would otherwise not qualify as a small power production facility because of the power production capacity limitation contained in subparagraph (A)(ii); but only if—

"(i) either of the following is submitted to the Commission not later than December 31, 1994:

"(I) an application for certification of the facility as a qualifying small power production facility; or

"(II) notice that the facility meets the requirements for qualification; and

"(ii) construction of such facility commences not later than December 31, 1999, or, if not, reasonable diligence is exercised toward the completion of such facility taking into account all factors relevant to construction of the facility.".

16 USC 796 note.

SEC. 4. FERC REGULATIONS.

Unless the Federal Energy Regulatory Commission otherwise specifies, by rule after enactment of this Act, any eligible solar, wind, waste, or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualify-

nall power production facility (as defined in subparagraph (C) tion 3(17) of the Federal Power Act as amended by this Act)—

(1) shall be considered a qualifying small power production acility for purposes of part 292 of title 18, Code of Federal egulations, notwithstanding any size limitations contained in uch part, and

(2) shall not be subject to the size limitation contained in ection 292.601(b) of such part.

LICENSING OF URANIUM ENRICHMENT FACILITIES.

DEFINITION OF PRODUCTION FACILITY.—Section 11v. of the ic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended by adding e end the following new sentence: "Except with respect to the t of a uranium enrichment production facility, such term as in chapters 10 and 16 shall not include any equipment or e (or important component part especially designed for such ment or device) capable of separating the isotopes of uranium riching uranium in the isotope 235.".

REGULATION.—Section 161b. of the Atomic Energy Act of 1954 .S.C. 2201(b)) is amended by striking the period at the end of ection and adding the following: "; in addition, the Commission prescribe such regulations or orders as may be necessary or able to promote the Nation's common defense and security with rd to control, ownership, or possession of any equipment or e, or important component part especially designed for such pment or device, capable of separating the isotopes of uranium riching uranium in the isotope 235;".

OWNERSHIP OF PRODUCTION FACILITIES.—Section 41a. (2) of the nic Energy Act of 1954 (42 U.S.C. 2061(a)(2)) is amended by ing "section 103 or 104" and inserting "under this Act".

SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Section 236 of the nic Energy Act of 1954 (42 U.S.C. 2284) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by inserting "or" after the semicolon at the end of paragraph (3); and

(3) by adding after paragraph (3) the following new paragraph:

"(4) any uranium enrichment facility licensed by the Nuclear Regulatory Commission.".

URANIUM ENRICHMENT FACILITIES.—Chapter 16 of the Atomic rgy Act of 1954 (42 U.S.C. 2231 et seq.) is amended by adding at end the following new section:

42 USC 2243.

C. 193. LICENSING OF URANIUM ENRICHMENT FACILITIES.

(a) ENVIRONMENTAL IMPACT STATEMENT.—

"(1) MAJOR FEDERAL ACTION.—The issuance of a license under sections 53 and 63 for the construction and operation of any uranium enrichment facility shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) TIMING.—An environmental impact statement prepared under paragraph (1) shall be prepared before the hearing on the issuance of a license for the construction and operation of a uranium enrichment facility is completed.

(b) ADJUDICATORY HEARING.—

"(1) IN GENERAL.—The Commission shall conduct a single adjudicatory hearing on the record with regard to the licensing of the construction and operation of a uranium enrichment facility under sections 53 and 63.

"(2) TIMING.—Such hearing shall be completed and a decision issued before the issuance of a license for such construction and operation.

"(3) SINGLE PROCEEDING.—No further Commission licensing action shall be required to authorize operation.

"(c) INSPECTION AND OPERATION.—Prior to commencement of operation of a uranium enrichment facility licensed hereunder, the Commission shall verify through inspection that the facility has been constructed in accordance with the requirements of the license for construction and operation. The Commission shall publish notice of the inspection results in the Federal Register.

Federal Register, publication.

"(d) INSURANCE AND DECOMMISSIONING.—

Nuclear materials. Claims.

"(1) The Commission shall require, as a condition of the issuance of a license under sections 53 and 63 for a uranium enrichment facility, that the licensee have and maintain liability insurance of such type and in such amounts as the Commission judges appropriate to cover liability claims arising out of any occurrence within the United States, causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of chemical compounds containing source or special nuclear material.

"(2) The Commission shall require, as a condition for the issuance of a license under sections 53 and 63 for a uranium enrichment facility, that the licensee provide adequate assurance of the availability of funds for the decommissioning (including decontamination) of such facility using funding mechanisms that may include, but are not necessarily limited to, the following:

"(A) Prepayment (in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities).

"(B) Surety (in the form of a surety or performance bond, letter of credit, or line of credit), insurance, or other guarantee (including parent company guarantee) method.

"(C) External sinking fund in which deposits are made at least annually.

"(e) NO PRICE-ANDERSON COVERAGE.—Section 170 of this Act shall not apply to any license under section 53 or 63 for a uranium enrichment facility constructed after the date of enactment of this section.".

SEC. 6. RIGHT-OF-WAY USE.

(a) The proposed alignment of the Harold T. (Bizz) Johnson California-Pacific Northwest Intertie line authorized by Public Laws 98-360 and 99-88 within Contra Costa County, California, is hereby rejected.

98 Stat. 416; 99 Stat. 321.

(b) The Secretary of Energy, acting through the Western Area Power Administration, in consultation with all Intertie project participants, shall, prior to January 30, 1991, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate

a proposed realignment of the Intertie within Contra Costa County, California.

(c) To the maximum extent practicable, the proposed realignment shall be consistent with the needs of affected landowners, East Bay Regional Park District, the environment, and system security and reliability.

(d) No action shall be taken to implement the proposed realignment prior to March 1, 1991.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 4808 (S. 2415):

HOUSE REPORTS: No. 101-885 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-470 accompanying S. 2415 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 26, S. 2415 considered and passed Senate.
Oct. 23, H.R. 4808 considered and passed House.
Oct. 27, considered and passed Senate, amended. House concurred in Senate amendment.

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